

8. 40 C.F.R. § 63.2 defines “existing source” as an affected source that is not a new source.

9. Subpart QQQQQQ at 40 C.F.R. § 63.11430(a) requires that for new or existing area sources that use a pressure treatment process with any wood preservative containing chromium, arsenic, dioxins, or methylene chloride, the preservative must be applied to the wood product inside a retort or similarly enclosed vessel.
10. Subpart QQQQQQ at 40 C.F.R. § 63.11430(c) states, among other things, that if you use any wood preservative containing chromium, arsenic, dioxins, or methylene chloride at a new or existing area source, you must prepare and operate according to a management practice plan (MPP) to minimize air emissions from the preservative treatment of wood at a new or existing area source.
11. Subpart QQQQQQ at 40 C.F.R. § 63.11430(c)(1) requires the MPP to include the activity of minimizing preservative usage.
12. Subpart QQQQQQ at 40 C.F.R. § 63.11430(c)(6) requires the MPP to include the activity of fully draining the retort to the extent practicable, prior to opening the retort door.
13. Subpart QQQQQQ at 40 C.F.R. § 63.11430(c)(7) requires the MPP to include the activity of promptly collecting any spills.
14. Subpart QQQQQQ at 40 C.F.R. § 63.11432(a) requires affected sources to comply with the requirements of the General Provisions in 40 C.F.R. Part 63, Subpart A, according to Table 1 in Subpart QQQQQQ. Table 1 states that 40 C.F.R. § 63.6(e)(1) is applicable.
15. Part 63, Subpart A, specifically 40 C.F.R. § 63.6(e)(1) states, among other things, that at all times the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions.
16. Subpart QQQQQQ at 40 C.F.R. § 63.11432(d) requires you to report any deviation from the requirements of the subpart within 30 days of the deviation.

Findings of Fact

17. Bell Lumber owns and operates a wood preserving facility at 778 1st St NW, New Brighton, MN 55112 (the Facility).
18. On February 5, 2010, Bell Lumber submitted an initial notification of applicability and signed statement notifying U.S. EPA Region 5 that it used pentachlorophenol (PCP) in its wood treatment operations at the Facility, stating that PCP contains trace amounts of dioxin congeners.
19. PCP is an air pollutant listed in Section 112(b) of the CAA and a preservative that meets the requirements of 40 C.F.R. § 63.11430(a).
20. The Facility is an existing source, because it commenced construction before April 4, 2007, the date on which EPA proposed Subpart QQQQQQ, in accordance with 40 C.F.R. § 63.11428(b).

21. The Facility is an area source of HAP emissions because it emits or has the potential to emit, considering controls, in the aggregate less than 10 tons per year of any HAP and 25 tons per year of any combination of HAPs.

22. The Facility is subject to Subpart QQQQQQ, as well as to the General Provisions of Subpart A, including 40 C.F.R. § 63.6(e)(1).

23. On February 11, 2021, U.S. EPA sent Bell Lumber a Request for Information (Information Request) about the Facility, pursuant to Section 114 of the CAA. Bell Lumber sent its response to EPA on April 15, 2021.

24. In the above-referenced February 5, 2010 notification of applicability, Bell Lumber also notified U.S. EPA that it had prepared and was operating according to a Management Practice Plan (MPP) to minimize air emissions from the preservative treatment of wood, and was in compliance with 40 C.F.R. § 63.11430(c).

25. In response to the Information Request, Bell Lumber stated that it operates according to its most recent MPP, dated September 30, 2016, which guides facility operations pertaining to: minimizing preservative usage; fully draining the retort to the extent practicable, prior to opening the retort door; promptly collecting any spills; and performing and documenting corrective actions.

26. The most recent MPP states that the product vapor recovery system consisting of a glycol chilled condenser and a wet-packed oil scrubber must be operational during the treating process to minimize the release of PCP to the environment (*MPP, 005480 (61), Page 1*).

27. The MPP includes the requirement to follow the Facility's Spill Prevention Control and Countermeasure (SPCC) Plan when collecting all spills of treatment solution.

28. Oil is defined as "oil of any kind or in any form, including, but not limited to: ...other oils and greases, including petroleum, fuel oil, sludge, synthetic oils, mineral oils, oil refuse, or oil mixed with wastes other than dredged spoil" (40 C.F.R. § 112.2).

29. Bell Lumber's "Oil Storage Inventory" includes, but is not limited to, pentachlorophenol and fuel oil. The term "oil" at Bell Lumber can refer to a mixture of preservative and/or process liquids.

30. The SPCC Plan defines a "large indoor spill" as one that is "contained by the secondary barrier [and] then [is] pumped from the sump found in each area for reuse or disposal" (*SPCC Plan, 005480 (33) Revision 4, Page 10*).

31. The SPCC plan states that "any spilled or leaked oil is cleaned up immediately using the cleanup supplies are located in the Wood Treatment and Water Treatment Buildings and is disposed of as required" (*SPCC Plan, 005480 (33) Revision 4, Page 17*).

32. The SPCC plan states that in "the event of a large spill...[o]utside contractors as needed should be contacted to remove the spilled oil" (*SPCC Plan, 005480 (33) Revision 4, Page 14*).

33. On April 29, 2022, U.S. EPA conducted an inspection of the Facility to determine compliance with the requirements found at 40 C.F.R. Part 63, Subpart QQQQQQ and 40 C.F.R. § 63.6(e)(1).

34. During the inspection, Facility representatives stated that the seal on the dissolver tank needs replacement every one to six months but gets replaced only after it fails and often when the issue is distinguishable by smell.

35. During the inspection, Facility representatives stated the HVAC system above the cylinders historically vented the ambient air from the Wood Treatment Building via carbon activated air filters, but the carbon filters are no longer in use. In addition, the HVAC system was damaged, but Bell Lumber was still operating it.

36. During the inspection while using forward-looking infrared (FLIR) camera technology, U.S. EPA discovered a leaking joint affixed to the top of Cylinder 1 while Cylinder 1 was in an active charge.

37. During the inspection, Bell Lumber representatives noted to EPA that a dispersion “damper” above the wet-packed oil scrubber is no longer in use due to the lack of an air permit requiring its use.

38. During the inspection, U.S. EPA discovered a large indoor spill in the tram transfer bay. Facility personnel informed U.S. EPA that the spill had occurred on April 23, 2022. U.S. EPA photographed the large indoor spill, which was a dark and odorous liquid appearing to contain preservative and process liquids.

39. On May 13, 2022, Bell Lumber submitted charge records which indicate a loss of 150 gallons from Cylinder 2 on April 23, 2022. The retort door of Cylinder 2 opens into the tram transfer bay.

40. On May 13, 2022, Bell Lumber submitted documentation requested by U.S. EPA at the inspection U.S. EPA conducted on April 29, 2022. That documentation informed U.S. EPA that Bell Lumber had begun troubleshooting the issues “with the normal procedure for transferring process water” on April 25, 2022, and that the corrective actions were completed on April 30, 2022.

41. In the May 13, 2022 document submission, Bell Lumber also stated that the spill contained rain and cleaning water that had accumulated into the sump and tram transfer bay. The SPCC plan states “good housekeeping practices are designed to ... reduce the potential for oil to come into contact with storm water” (*SPCC Plan, 005480 (33) Revision 4, Page 8*).

42. On May 13, 2022, at U.S. EPA’s request, Bell Lumber submitted a statement certifying that the spill was fully cleaned up by May 3, 2022, approximately 10 days after the spill.

Violations

43. Bell Lumber failed to operate Cylinder 1 as an enclosed vessel by allowing the joint to leak on top of Cylinder 1, in violation of 40 C.F.R. § 63.11430(a).

44. Bell Lumber failed to operate Cylinder 2 as an enclosed vessel by allowing the loss of 150 gallons of oil, on April 23rd, 2022, in violation of 40 C.F.R. § 63.11430(a) and 40 C.F.R. § 63.11430(c)(6).

45. Bell Lumber failed to operate the Facility in a manner consistent with safety and good air pollution control practices for minimizing emissions, described in paragraphs 34 through 39, and paragraph 41, above, in violation of Part 63, Subpart A, specifically 40 C.F.R. § 63.6(e)(1).

46. Bell Lumber failed to take appropriate steps to promptly respond to the large indoor spill in accordance with the MPP, which directs the Facility to follow the SPCC Plan and guides operations to minimize air emissions, in violation of 40 C.F.R. § 63.11430(c), 40 C.F.R. § 63.11430(c)(7), and 40 C.F.R. § 63.6(e)(1).

47. Bell Lumber failed to report the deviation from Subpart QQQQQQ of not promptly cleaning up the large indoor spill within the required 30 days of the deviation, in violation of 40 C.F.R. § 63.11432(d).

48. Bell Lumber failed to report the deviation of the 150-gallon loss on April 23, 2022, within the required 30 days of the deviation, in violation of 40 C.F.R. § 63.11432(d).

Environmental Impact of Violations

49. These violations have caused or can cause excess emissions of volatile organic compounds (VOCs) and HAPs. VOCs and HAPs include a variety of compounds and chemicals, some of which may have short- and long-term adverse health effects. Health effects may include eye, nose and throat irritation, headaches, loss of coordination and nausea, damage to liver, kidney and central nervous system. Some VOCs are suspected or known to cause cancer in animals and/or humans. VOCs also contribute to the formation of ground-level ozone which is harmful to human health. HAPs contribute to unhealthy levels of particulate matter in the air. Health effects associated with HAPs include cancer, asthma and other respiratory ailments, birth defects, reproductive effects, and neurodevelopmental defects

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